

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CUTBERTO VIRAMONTES, an individual  
and resident of Cook County, Illinois, *et al.*,

Plaintiffs,

v.

THE COUNTY OF COOK, a body politic  
and corporate, *et al.*,

Defendants.

Case No. 1:21-cv-04595

Assigned Judge: Rebecca R. Pallmeyer

Designated  
Magistrate Judge: Susan E. Cox

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT  
PURSUANT TO FED. R. CIV. P. 56**

Defendants, the County of Cook, a body politic and corporate, Toni Preckwinkle, in her official capacity as County Board President and Chief Executive Officer of Cook County, Kimberly M. Foxx, in her official capacity as State's Attorney, and Thomas Dart, in his official capacity as Sheriff (collectively "Defendants"), by their attorney, Kimberly M. Foxx, State's Attorney of Cook County, move this Honorable Court pursuant to Federal Rule of Civil Procedure 56 requesting the entry of judgment in their favor and against the Plaintiffs. In support, Defendants state:

1. On August 27, 2021, Plaintiffs filed a Complaint alleging that the Cook County Blair Holt Assault Weapon Ordinance ("the Ordinance") is unconstitutional and deprives Plaintiffs of their Second Amendment rights by way of the Fourteenth Amendment. (ECF No. 1.)

2. Defendants bring this motion because the pleadings, depositions, interrogatory answers, and the affidavits show that there is no genuine issue as to any material fact and that Defendants are entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c).

3. Plaintiffs bear the initial burden to show that “the Second Amendment’s plain text covers [their proposed] conduct” and thus “presumptively protects that conduct.” *New York State Rifle & Pistol Ass’n v. Bruen*, \_\_\_ U.S. \_\_\_, 142 S. Ct. 2111, 2129–30 (2022). Plaintiffs cannot establish that the Second Amendment’s plain text covers the military-grade weapons regulated by Ordinance. For several reasons, the weapons in dispute fall outside of the protection of the plain text of the Second Amendment.

4. Alternatively, this Court should enter judgment in favor of Defendants because the Ordinance is consistent with the Nation’s historical tradition of firearm regulation. *Bruen* does not impose “a regulatory straightjacket” requiring the government to identify a “historical *twin*” to the ban in question. *Bruen* at 2133. Rather, *Bruen* suggests “a more nuanced approach” when regulations “implicat[e] unprecedented societal concern or dramatic technological changes.” *Id.* at 2132.

5. Defendants are filing a Memorandum of Law In Support of Defendants’ Motion For Summary Judgment contemporaneously with this motion.

### Conclusion

For all of the reasons set forth above and as supported by Defendants' Memorandum of Law filed in support, Defendants respectfully request this Court enter judgment in their favor and against the Plaintiffs and for any other relief it deems appropriate.

Dated March 3, 2023

KIMBERLY M. FOXX  
*Cook County State's Attorney*  
*Counsel for Defendants*

By: *s/Jessica M. Scheller*

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### **CERTIFICATE OF SERVICE**

I, Jessica M. Scheller, hereby certify that on March 3, 2023, I caused a true and correct copy of the Defendants' Motion for Summary Judgment Pursuant to Fed. R. Civ. P. 56, to be sent via e-filing to all counsel of record in accordance with the rules regarding the electronic filing and service of documents.

/s/ Jessica M. Scheller

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